

Union Calendar No. 220

105TH CONGRESS
1ST Session

H. R. 2709

[Report No. 105-375]

A BILL

To impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

NOVEMBER 4, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 1997

Mr. GILMAN (for himself, Mr. GINGRICH, Mr. BOEHNER, Mr. COX of California, Mr. SOLOMON, Mr. HYDE, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. KING, Mr. CHABOT, Mr. FOX of Pennsylvania, Mr. WELLER, Mr. SAXTON, Mr. NETHERCUTT, Mr. DEUTSCH, Mr. SCHUMER, Mr. GUTIERREZ, and Mr. BORSKI) introduced the following bill; which was referred to the Committee on International Relations

NOVEMBER 4, 1997

Additional sponsors: Mr. MCINTYRE, Mr. ENGEL, Mr. LOBIONDO, Mr. WOLF, Mr. GEPHARDT, Mr. NEUMANN, Mr. BLUNT, Mr. HAYWORTH, Mr. LIVINGSTON, Mr. BROWN of Ohio, Mr. FOLEY, Mr. HILL, Mr. EHRLICH, Mr. BACHUS, Mr. BAKER, Mr. ROEMER, Mr. McNULTY, Mr. ROTHMAN, Mr. MENEDEZ, Mr. VISCLOSKY, Mr. FROST, Mr. LATHAM, Mr. KENNEDY of Rhode Island, Ms. HARMAN, Mr. SHAYS, Mr. LEWIS of California, Mr. BURR of North Carolina, Mr. LAZIO of New York, Mr. SMITH of New Jersey, Mr. HOYER, Mr. PETERSON of Minnesota, Mr. YOUNG of Alaska, Mr. KUCINICH, Mr. MEEHAN, Mr. NADLER, Mr. CARDIN, Mr. THOMAS, Mr. BLAGOJEVICH, Mr. BENTSEN, Mr. KNOLLENBERG, Mr. BILIRAKIS, Mr. FORD, Mr. HOSTETTLER, Mr. KASICH, Mr. LATOURETTE, Mr. FARR of California, Mr. PORTER, Mr. COOKSEY, Mr. COSTELLO, Mr. WYNN, Ms. WOOLSEY, Mr. DOOLITTLE, Mr. SANFORD, Mr. SHADEGG, Mrs. MORELLA, Mr. RODRIGUEZ, Mr. STUPAK, Mr. BERMAN, Mr. CAMPBELL, Mr. BAESLER, Mr. GREEN, Mr. CUNNINGHAM, Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. WEXLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PASCRELL, Mr. COYNE, Mr. BARTLETT of Maryland, Mr. SHERMAN, Mr. KIND, Mr. SNOWBARGER, Mr. FRANKS of New Jersey, Mr. BARR of Georgia, Mrs. MALONEY of New York, Mr. WAMP, Mr. PAPPAS, Mr. NEAL Massachusetts, Mrs. NORTHUP, Mr. SALMON, Mr. PARKER, Mr.

REYES, Mr. MALONEY of Connecticut, Mr. HUTCHINSON, Mr. PICKERING, Mrs. THURMAN, Mr. SHAW, Mr. WEYGARD, Mr. FRELINGHUYSEN, Mr. DIXON, Mr. JONES, Mr. PITTS, Mr. ENGLISH of Pennsylvania, Mr. CANNON, Mr. SESSIONS, Ms. BROWN of Florida, Mr. GORDON, Mr. TAUZIN, Mr. SAM JOHNSON of Texas, and Mrs. EMERSON

NOVEMBER 4, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 23, 1997]

A BILL

To impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Iran Missile Prolifera-*
 5 *tion Sanctions Act of 1997”.*

6 **SEC. 2. REPORTS ON MISSILE PROLIFERATION TO IRAN.**

7 (a) *REPORTS.*—*Except as provided in subsection (c),*
 8 *the President shall, at the times specified in subsection (b),*
 9 *submit to the Committee on International Relations of the*
 10 *House of Representatives and the Committee on Foreign Re-*
 11 *lations of the Senate a report identifying every foreign per-*
 12 *son with respect to whom there is credible information indi-*
 13 *cating that that person, on or after August 8, 1995—*

1 (1)(A) *transferred items on the MTCR Annex, or*
2 *items that the United States proposes for addition to*
3 *the MTCR Annex, that contributed to Iran’s efforts to*
4 *acquire, develop, or produce ballistic missiles, or*

5 (B) *provided technical assistance or facilities*
6 *which the President deems to be of concern because of*
7 *their direct contribution to Iran’s efforts to acquire,*
8 *develop, or produce ballistic missiles; or*

9 (2)(A) *attempted to transfer items on the MTCR*
10 *Annex, or items that the United States proposes for*
11 *addition to the MTCR Annex, that would have con-*
12 *tributed to Iran’s efforts to acquire, develop, or*
13 *produce ballistic missiles, or*

14 (B) *attempted to provide technical assistance or*
15 *facilities which the President deems to be of concern*
16 *because of their direct contribution to Iran’s efforts to*
17 *acquire, develop, or produce ballistic missiles.*

18 (b) *TIMING OF REPORTS.—The reports under sub-*
19 *section (a) shall be submitted not later than 30 days after*
20 *the date of the enactment of this Act, not later than 180*
21 *days after such date of enactment, not later than 1 year*
22 *after such date of enactment, and not later than the end*
23 *of each 1-year period thereafter.*

1 (c) *EXCEPTIONS FOR PERSONS PREVIOUSLY IDENTI-*
 2 *FIED, SANCTIONED, OR SUBJECT OF WAIVER.*—*Any foreign*
 3 *person who—*

4 (1) *was identified in a previous report submitted*
 5 *under subsection (a) on account of a particular trans-*
 6 *fer, transaction, or attempt,*

7 (2) *has engaged in a transfer or transaction that*
 8 *was the basis for the imposition of sanctions with re-*
 9 *spect to that person under section 73 of the Arms Ex-*
 10 *port Control Act or section 1604 of the Iran-Iraq*
 11 *Arms Non-Proliferation Act of 1992, or*

12 (3) *may have engaged in a transfer or trans-*
 13 *action, or made an attempt, that was the subject of*
 14 *a waiver under section 4,*
 15 *is not required to be identified on account of that same*
 16 *transfer, transaction, or attempt in any report submitted*
 17 *thereafter under this section.*

18 **SEC. 3. IMPOSITION OF SANCTIONS.**

19 (a) *REQUIREMENT TO IMPOSE SANCTIONS.*—

20 (1) *REQUIREMENT TO IMPOSE SANCTIONS.*—*The*
 21 *sanctions described in subsection (b) shall be imposed*
 22 *on—*

23 (A) *any foreign person identified under sub-*
 24 *section (a)(1) of section 2 in a report submitted*
 25 *under that section, and*

1 (B) any foreign person identified under
2 subsection (a)(2) of section 2 in a report submit-
3 ted under that section, if that person has been
4 identified in that report or a previous report as
5 having made at least 1 other attempt described
6 in subsection (a)(2) of that section.

7 (2) *EFFECTIVE DATE OF SANCTIONS.*—The sanc-
8 tions shall be effective—

9 (A) 30 days after the report triggering the
10 sanction is submitted, if the report is submitted
11 on or before the date required by section 2(b);

12 (B) 30 days after the date required by sec-
13 tion 2(b) for submitting the report, if the report
14 triggering the sanction is submitted within 30
15 days after that date; and

16 (C) on the date that the report triggering
17 the sanction is submitted, if that report is sub-
18 mitted more than 30 days after the date required
19 by section 2(b).

20 (b) *DESCRIPTION OF SANCTIONS.*—The sanctions re-
21 ferred to in subsection (a) that are to be imposed on a for-
22 eign person described in that subsection are the following:

23 (1) *ARMS EXPORT SANCTION.*—For a period of
24 not less than 2 years, the United States Government
25 shall not sell to that person any item on the United

1 *States Munitions List as in effect on August 8, 1995,*
2 *and shall terminate sales to that person of any de-*
3 *fense articles, defense services, or design and construc-*
4 *tion services under the Arms Export Control Act.*

5 (2) *DUAL USE SANCTION.—For a period of not*
6 *less than 2 years, the authorities of section 6 of the*
7 *Export Administration Act of 1979 shall be used to*
8 *prohibit the export to that person of any goods or*
9 *technology on the control list established under section*
10 *5(c)(1) of that Act.*

11 (3) *UNITED STATES ASSISTANCE.—For a period*
12 *of not less than 2 years, the United States Govern-*
13 *ment shall not provide any assistance in the form of*
14 *grants, loans, credits, guarantees, or otherwise, to that*
15 *person.*

16 **SEC. 4. WAIVER ON BASIS OF ADDITIONAL INFORMATION.**

17 (a) *IN GENERAL.—The President may waive the im-*
18 *sition of any sanction that would otherwise be required*
19 *under section 3 on any foreign person 15 days after the*
20 *President determines and reports to the Committee on*
21 *International Relations of the House of Representatives and*
22 *the Committee on Foreign Relations of the Senate that, on*
23 *the basis of information provided by that person, or other-*
24 *wise obtained by the President, the President is persuaded*
25 *that the person did not, on or after August 8, 1995—*

1 (1)(A) *transfer items on the MTCR Annex, or*
 2 *items that the United States proposes for addition to*
 3 *the MTCR Annex, that contributed to Iran’s efforts to*
 4 *acquire, develop, or produce ballistic missiles, or*

5 (B) *provide technical assistance or facilities*
 6 *which the President deems to be of concern because of*
 7 *their direct contribution to Iran’s efforts to acquire,*
 8 *develop, or produce ballistic missiles; or*

9 (2) *attempt on more than one occasion—*

10 (A) *to transfer items on the MTCR Annex,*
 11 *or items that the United States proposes for ad-*
 12 *dition to the MTCR Annex, that would have con-*
 13 *tributed to Iran’s efforts to acquire, develop, or*
 14 *produce ballistic missiles, or*

15 (B) *to provide technical assistance or facili-*
 16 *ties described in paragraph (1)(B).*

17 (b) *WRITTEN JUSTIFICATION.—The determination and*
 18 *report of the President under subsection (a) shall include*
 19 *a written justification describing in detail—*

20 (1) *the credible information indicating that the*
 21 *person—*

22 (A) *transferred items described in section*
 23 *2(a)(1)(A), or provided technical assistance or*
 24 *facilities described in section 2(a)(1)(B); or*

1 (B) attempted to transfer items described in
 2 section 2(a)(1)(A), or attempted to provide tech-
 3 nical assistance or facilities described in section
 4 2(a)(1)(B);

5 (2) the additional information which persuaded
 6 the President that the person did not—

7 (A) transfer items described in section
 8 2(a)(1)(A), or provide technical assistance or fa-
 9 cilities described in section 2(a)(1)(B); or

10 (B) attempt to transfer items described in
 11 section 2(a)(1)(A), or attempt to provide tech-
 12 nical assistance or facilities described in section
 13 2(a)(1)(B); and

14 (3) the analysis of the information supporting
 15 the President's conclusion.

16 (c) *SUBMISSION IN CLASSIFIED FORM.*—When the
 17 President considers it appropriate, the determination and
 18 report of the President under subsection (a) and the written
 19 justification under subsection (b), or appropriate parts
 20 thereof, may be submitted in classified form.

21 **SEC. 5. WAIVER ON BASIS OF NATIONAL SECURITY.**

22 (a) *IN GENERAL.*—The President may waive the im-
 23 position of any sanction that would otherwise be required
 24 under section 3 on any foreign person 15 days after the
 25 President determines and reports to the Committee on

1 *International Relations of the House of Representatives and*
 2 *the Committee on Foreign Relations of the Senate that such*
 3 *waiver is essential to the national security of the United*
 4 *States.*

5 (b) *WRITTEN JUSTIFICATION.*—*The determination and*
 6 *report of the President under subsection (a) shall include*
 7 *a written justification describing in detail the facts and cir-*
 8 *cumstances supporting the President's conclusion.*

9 (c) *SUBMISSION IN CLASSIFIED FORM.*—*When the*
 10 *President considers it appropriate, the written justification*
 11 *under subsection (b), or appropriate parts thereof, may be*
 12 *submitted in classified form.*

13 **SEC. 6. ADDITIONAL INFORMATION REGARDING ACTIONS**
 14 **BY GOVERNMENT OF PRIMARY JURISDIC-**
 15 **TION.**

16 *As part of each report submitted under section 2, the*
 17 *President shall include the following information with re-*
 18 *spect to each foreign person identified in that report:*

19 (1) *A statement regarding whether the govern-*
 20 *ment of primary jurisdiction over that person was*
 21 *aware of the activities that were the basis for the*
 22 *identification of that person in the report.*

23 (2) *If the government of primary jurisdiction*
 24 *was not aware of the activities that were the basis for*
 25 *the identification of that person in the report, an ex-*

1 *planation of the reasons why the United States Gov-*
2 *ernment did not inform that government of those ac-*
3 *tivities.*

4 (3) *If the government of primary jurisdiction*
5 *was aware of the activities that were the basis for the*
6 *identification of that person in the report, a descrip-*
7 *tion of the efforts, if any, undertaken by that govern-*
8 *ment to prevent those activities, and an assessment of*
9 *the effectiveness of those efforts, including an expla-*
10 *nation of why those efforts failed.*

11 (4) *If the government of primary jurisdiction*
12 *was aware of the activities that were the basis for the*
13 *identification of that person in the report and failed*
14 *to undertake effective efforts to prevent those activi-*
15 *ties, a description of any sanctions that have been im-*
16 *posed on that government by the United States Gov-*
17 *ernment because of such failure.*

18 **SEC. 7. PURCHASE OF WEAPONS TECHNOLOGY.**

19 (a) *SENSE OF THE CONGRESS.—It is the sense of the*
20 *Congress that the President should exercise the authority*
21 *granted to him under section 504 of the Freedom for Russia*
22 *and Emerging Eurasian Democracies and Open Markets*
23 *Support Act of 1992 (22 U.S.C. 5854)—*

24 (1) *to prevent the transfer of weapons-related*
25 *material and delivery systems to Iran through the*

1 *purchase, barter, or other acquisition of such material*
2 *and delivery systems; and*

3 *(2) to prevent the transfer to Iran of scientific*
4 *and technical expertise with respect to such weapons-*
5 *related material and delivery systems.*

6 *(b) AVAILABILITY OF AMOUNTS.—Amounts hereafter*
7 *made available to carry out chapter 11 of part I of the For-*
8 *ign Assistance Act of 1961 (22 U.S.C. 2295 et seq.; relating*
9 *to assistance for the independent states of the former Soviet*
10 *Union) may be used to carry out subsection (a).*

11 **SEC. 8. DEFINITIONS.**

12 *For the purposes of this Act—*

13 *(1) the terms “foreign person” and “person”*
14 *mean—*

15 *(A) a natural person that is an alien;*

16 *(B) a corporation, business association,*
17 *partnership, society, trust, or any other non-*
18 *governmental entity, organization, or group, that*
19 *is organized under the laws of a foreign country*
20 *or has its principal place of business in a foreign*
21 *country;*

22 *(C) any foreign governmental entity operat-*
23 *ing as a business enterprise; and*

24 *(D) any successor or subsidiary of any en-*
25 *tity described in subparagraph (B) or (C);*

1 (2) the term “government of primary jurisdic-
2 tion” means—

3 (A) in the case of a natural person, the for-
4 eign government of the country of which the per-
5 son is a citizen or national;

6 (B) in the case of an entity described in
7 subparagraph (B) of paragraph (1), the foreign
8 government of the country in which the entity
9 has its principal place of business, or the foreign
10 government under whose laws that entity is or-
11 ganized; and

12 (C) in the case of a foreign governmental
13 entity described in subparagraph (C) of para-
14 graph (1), the foreign government of which that
15 entity is a part; and

16 (3) the term “MTCR Annex” has the meaning
17 given that term in section 11B(c)(4) of the Export
18 Administration Act of 1979 (50 U.S.C. 2410b(c)(4)).